IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5616 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ADAM UMARJI (VOHRA PATEL)

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 5616 of 2001

Mr.ANIL VERMA for MR MM TIRMIZI for Petitioner No. 1

Mr.KC SHAH, A.P.P. for Respondent No. 1

MR YN RAVANI for Respondent No. 2,7,9-10

NOTICE SERVED for Respondent No. 3-6,8

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 09/04/2002

ORAL JUDGEMENT

Rule. Shri K.C.Shah, learned A.P.P. waives

service of Rule for respondent No.1 - State. Mr.Y.N.Ravani, learned Counsel appears and waives service of Rule for respondents No.2 to 10.

2. The petitioner is the original complainant. He lodged F.I.R. No.21/2001 before the Police against the respondents - accused for the offences u/s.147, 148, 149, 326 I.P.Code and Section 135 of the Bombay Police Act regarding the incident in question which took place on 5.2.2001 in which the respondents accused alleged to have assaulted him with deadly weapons like Dharia, Sword, Hockey and sticks. Later on Circle Police Inspector, Bharuch requested the learned J.M.F.C. Bharuch, Court No.2, to add Section 307 I.P.C. in the case.

3. Accused persons filed separate Bail Applications before the learned trial Judge for releasing them on Bail. They were granted bail by separate orders on certain conditions.

4. Criminal Miscellaneous Application No.306 of 2001 was filed u/s.439(2) before the learned trial Judge for cancellation of Bail. The same also came to be rejected on 25.6.2001. All the separate orders of bail and rejection of Application for cancellation of Bail have been challenged by the petitioner - complainant by way of this petition, which is not maintainable.

5. It is true that the impugned orders passed by the learned Judge is in one Crime Register, but when the accused persons filed separate Bail Application and the separate orders passed in it then they are required to be challenged by way of separate petition. Once the learned Judge rejected the Application u/s.439(2 for cancellation of Bail granted in favour of the accused then the same was also required to be challenged by way of separate Application. All the impugned orders cannot be challenged in one petition. Therefore, only on this ground this petition was required to be dismissed.

6. Even on merit when the learned Judge exercised the discretion in favour of the respondents - accused long back and application for cancellation of bail is also rejected by the learned Judge then this Court would certainly not interfere with such orders after lapse of more than one year, more particularly when the case is already committed to the Court of Sessions, as stated at the Bar by learned Counsel Shri Ravani, learned Counsel appearing for the respondents accused.

In view of above discussion this petition fails

and is hereby dismissed. Rule discharged.

Date : April 09, 2002 (B.J.Shethna, J.)

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